

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

JESSIE J. PERRY,

Petitioner,

v.

CIVIL ACTION NO. 2:04-cv-00785
(Criminal No. 2:02-cr-00020)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

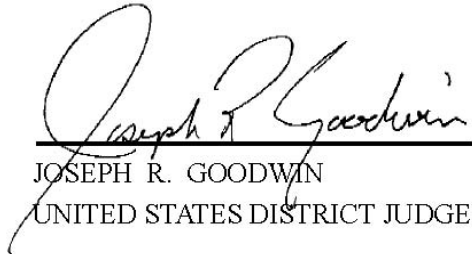
Pending before the court is the petitioner's letter [Docket 71] seeking post-conviction relief, which the court treats as a motion, under 28 U.S.C. § 2255, to vacate, set aside or correct sentence. This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court dismiss the petitioner's letter/motion as untimely.

Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge, and **DISMISSES** the petitioner's letter/motion [Docket 71].

The court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Stanley, counsel of record, and any unrepresented party.

ENTER: October 3, 2005



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE